

J. SCOTT GERIEN, State Bar No. 184728
 MEGAN F. HEALY, State Bar No. 229177
 DICKENSON, PEATMAN & FOGARTY
 809 Coombs Street
 Napa, California 94559
 Telephone: (707) 252-7122
 Facsimile: (707) 255-6876

Attorneys for Plaintiffs
 MARK CARTER and CHRISTY CARTER

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

Mark Carter, an individual, and Christy
 Carter, an individual

Plaintiffs,

vs.

South Coast Winery, Inc.

Defendant.

CASE NO. C 08-02979 EMC

**NOTICE PURSUANT TO LOCAL RULE
 3-13 OF PENDENCY OF OTHER ACTION**

Pursuant to Local Rule 3-13, Plaintiffs, Mark and Christy Carter ("Plaintiffs"), hereby submit this Notice of Pendency of Other Action. After receiving a demand letter from Plaintiffs alleging trademark infringement, Defendant, South Coast Winery, Inc., filed a pre-emptive declaratory judgment action in the U.S. District Court for the Central District of California, South Coast Winery, Inc. v. Mark Carter and Christy Carter, Case No. 08-cv-03269-CAS-RC, on May 16, 2008. Following this filing, Plaintiffs extended a settlement offer to Defendant in attempts to settle the matter and the parties agreed to extend the Plaintiff's answer deadline in the Central District action until June 20, 2008. On June 12, 2008, Defendant rejected Plaintiff's settlement offer and Plaintiffs filed this action in the Northern

1 District on June 17, 2008. Both actions involve the same claim of trademark infringement by
2 Plaintiffs.

3 While 28 U.S.C. Section 1407 would not appear to be the proper vehicle for
4 coordination of these two matters, pursuant to the Local Rules of the Central District, counsel
5 for Plaintiffs met and conferred with counsel for Defendant on June 18, 2008 to discuss
6 dismissal or transfer of the declaratory judgment action in the Central District to be
7 coordinated with this action in the Northern District. Defendant did not agree to such dismissal
8 or transfer of the Central District action. Accordingly, pursuant to the Central District Local
9 Rules requiring a 20-day stay following meet and confer before a motion is filed, Plaintiffs
10 informed Defendant that they would be filing a transfer motion after July 8, 2008.
11

12 Defendant's counsel has now notified Plaintiffs that it intends to file a motion to
13 dismiss, stay or transfer the Northern District action. Since Plaintiff's will be filing a motion to
14 transfer the declaratory judgment in the Central District, Plaintiffs believe that this Court
15 should stay proceedings in this action in the Northern District pending the decision by the
16 Central District on whether to transfer the declaratory judgment action. Should the Central
17 District agree with Plaintiffs that the Central District action was a pre-emptive strike by
18 Defendant reflecting an attempt at forum shopping, then matters may proceed forward in the
19 Northern District and the Northern District may avoid expending time and expense in hearing
20 any motion to dismiss or transfer filed by Defendant.
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2 Dated: 7/2/08

3 Respectfully submitted,

4 DICKENSON, PEATMAN & FOGARTY

5
6 By 

7 J. Scott Gerien
8 Megan F. Healy

9 809 Coombs Street
10 Napa, California 94559
11 Telephone: 707-252-7122
12 Facsimile: 707-255-6876

13 Attorneys for Plaintiffs,
14 Mark Carter and Christy Carter

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DP&F
DICKENSON, PEATMAN & FOGARTY
A Professional Law Corporation

PROOF OF SERVICE

I declare that I am over the age of 18 years, employed in the County of Napa, and not a party to the within action; my business address is 809 Coombs Street, Napa, California 94559.

On July 2, 2008, I placed a copy of the following document(s):

- **NOTICE PURSUANT TO LOCAL RULE 3-13 OF PENDENCY OF OTHER ACTION**

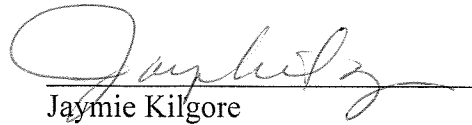
in a sealed envelope addressed as shown below and placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

The persons served are as follows:

David L. Hoffman
Law Offices of David L. Hoffman
28494 Westinghouse Place, Suite 204
Valencia, CA 91355

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed July 2, 2008, at Napa, California.


Jaymie Kilgore
Legal Secretary